IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 30 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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Versus

BACHUBHAI RAMJIBHAI PATEL

Appearance:

1. Appeal from Order No. 30 of 1996

MR NANDLAL THAKKAR for Petitioner No. 1

MR UR GANDHI for Respondents No. 1-2

MR SURESH M SHAH for Respondent No. 3

MR MEHUL S SHAH for Respondent No. 3

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 16/10/2001

ORAL JUDGEMENT

This appeal is arising out of the impugned order dated 28.6.1995 passed by the learned Trial Judge below notice of motion Ex.5 in Civil Suit No.2693/95 granting injunction as prayed for in terms of para 36(A) of notice of motion which was made absolute till final disposal of the suit. This appeal was straightaway admitted on 23.1.1996. Along with this appeal Civil Application No.730 of 1996 was filed wherein the learned Single Judge granted ad-interim relief in terms of para 8(A) while issuing rule to the other side. Later on ad-interim relief granted earlier was confirmed on the condition that the applicant shall without prejudice to his right and contentions deposit the disputed amount of Rs.2,41,615/= before the Trial Court within six weeks from the date of the order. On such deposit being made the Trial Court will invest the same in any nationalised bank by way of fixed deposit subject to the order that may be passed at the end of the trial. Accordingly, rule was made absolute on the Civil Application No.730 of 1996 on 31.1.1996. Though appeal was admitted way back in January, 1996 it is coming up for hearing after almost 6 years. Having regard to the peculiar facts and circumstances of the case, I am of the considered opinion that without going into the legality and validity of the impugned order passed by the learned Trial Court this appeal can be disposed of with a direction to the learned Trial Judge to decide the Civil Suit No.2693 of 1995 as early as possible and not later than 31.12.2002. Till then, interim relief granted earlier on Civil Application No.730/96 may continue.

Accordingly, this appeal is disposed of without going into the legality and validity of the impugned order passed by the learned Trial Judge, with a direction to the learned Trial Judge to decide the Civil Suit No.2693 of 1995 as early as possible and not later than 31.12.2002. Both the parties shall fully cooperate with the final disposal of the suit. Till then the interim relief granted earlier on Civil Application No.730/96 filed in this appeal shall continue. The same shall be subject to the final outcome of the suit before the trial court.

(B.J.Shethna, J.)

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